Senate File 378 - Introduced

SENATE FILE 378
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SF 250)

A BILL FOR

- 1 An Act relating to reimbursement of defense costs of peace
- officers and corrections officers.
- 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

S.F. 378

- 1 Section 1. <u>NEW SECTION</u>. **80F.2** Reimbursement of defense 2 costs.
- 3 l. If a peace officer, as defined in section 801.4, or a
- 4 corrections officer is charged with the alleged commission
- 5 of a public offense, based on acts or omissions within the
- 6 scope of the officer's lawful duty or authority, and the charge
- 7 is dismissed or the officer is acquitted of the charge, the
- 8 presiding magistrate or judge shall enter judgment awarding
- 9 reimbursement to the officer for any costs incurred in
- 10 defending against the charge, including but not limited to a
- 11 reasonable attorney fee, if the court finds the existence of
- 12 any of the following grounds:
- 13 a. The charge was without probable cause.
- 14 b. The charge was filed for malicious purposes.
- 15 c. The charge was unwarranted in consideration of all of the
- 16 circumstances and matters of law attending the alleged offense.
- 2. The officer may apply for review of a failure or refusal
- 18 to rule or an adverse ruling as to the existence of any of the
- 19 above grounds. The application shall be to a district judge
- 20 if the officer is seeking review of the act of a magistrate
- 21 or district associate judge and the application shall be to a
- 22 different district judge if review is sought of an act of a
- 23 district judge.
- 24 Sec. 2. REPEAL. Section 80.37, Code 2015, is repealed.
- 25 EXPLANATION
- The inclusion of this explanation does not constitute agreement with the explanation's substance by the members of the general assembly.
- 28 This bill relates to the reimbursement of certain defense
- 29 costs of peace officers and corrections officers.
- 30 Under current law, Code section 80.37 provides that
- 31 a peace officer will be reimbursed for certain defense
- 32 costs. Code section 80.37 defines "peace officer" as a
- 33 member, except a non-peace officer member, of the division
- 34 of state patrol, narcotics enforcement, state fire marshal,
- 35 or criminal investigation, including but not limited to a

- 1 gaming enforcement officer, who has passed a satisfactory 2 physical and mental examination, who has been duly appointed 3 by the department of public safety, and who is employed by any 4 division of the department of public safety. Code section 80.37 provides that if an officer is charged 6 with the alleged commission of a public offense, based on acts 7 or omission within the scope of the officer's lawful duty 8 or authority, and the charge is dismissed or the officer is 9 acquitted, the officer shall be reimbursed for costs incurred 10 in defending the charge if the court finds that the charge 11 was without probable cause, filed for malicious purposes, or 12 was unwarranted in consideration of the circumstances. Code 13 section 80.37 also provides that if a court fails to award 14 reimbursement of defense costs to an officer, the officer may 15 apply for judicial review of that decision. 16 The bill expands the type of peace officer who is entitled 17 to reimbursement of certain defense costs and moves Code 18 section 80.37 to new Code section 80F.2. The bill adds to 19 the definition of "peace officer" the following: a sheriff 20 and sheriff's regular deputy who is subject to mandated law 21 enforcement training, marshal and police officer of a city, 22 parole officer acting pursuant to Code section 906.2, probation 23 officer acting pursuant to Code sections 602.7202(4) and 907.2, 24 peace officer employed by board of regents institutions as 25 set forth in Code section 262.13, conservation officer as 26 authorized by Code section 456A.13, employee of the department 27 of transportation designated as a peace officer by resolution 28 of the department under Code section 321.477, employee of 29 an aviation authority designated as a peace officer by the 30 authority under Code section 330A.8(16), and such person as may
- The bill also provides that a corrections officer is
- 33 entitled to reimbursement of certain defense costs in the same
- 34 manner as a peace officer.

31 be otherwise so designated by law.